# Ng Tian Hock v Ng Swee Kin

# Tan Seou Geok v Ng Swee Kin & Anor

HIGH COURT (SINGAPORE) — SUIT NOS 2241 OF 1984 AND 3292 OF 1984
RAJAH J
30 NOVEMBER 1989

*Tort — Negligence — Traffic accident — Finding of fact*

The plaintiff in Suit No 2241 of 1984 ('Suit 2241') was riding his motor cycle with the plaintiff in Suit No 3292 of 1984 ('Suit 3292') as the pillion rider when they met with an accident with a motor car driven by the defendant in Suit 2241. The plaintiff commenced proceedings against the defendant in Suit 2241 for damages for personal injuries and consequential loss suffered by him caused by the negligence of the defendant. The pillion rider started an action against both the driver of the car and the rider of the motor cycle for negligence which caused personal injury and consequential loss. The two actions were consolidated. By agreement, the trial proceeded only on the question of liability.

**Held,** finding the defendant car driver fully liable:

(1) The court found it difficult to believe the evidence of the defendant car driver. It seemed that the accident occurred because the defendant was not keeping a proper lookout.

(2) The court therefore entered interlocutory judgment for the plaintiff in Suit 2241 and for the plaintiff in Suit 3292 against the first defendant.

[*Editorial Note*: The defendant has appealed to the Court of Appeal vide Civil Appeal No 134 of 1989.]

*Joe Chellam* for the plaintiff in Suit No 2241 of 1984.
*NK Pillai* for the defendant in Suit No 2241 of 1984 and the first defendant in Suit No 3292 of 1984.
*Tan Kar Ghee* (*KC Teo* with him) for the plaintiff in Suit No 3292 of 1984.
*Chia Choy Ping (Ms)* for the second defendant in Suit No 3292 of 1984.

*Cur Adv Vult*

**Rajah J**: In December 1982, one Ng Tian Hock, the plaintiff in Suit No 2241 of 1984 ('Suit 2241') was lawfully riding motor cycle AZ 9610G together with one Tan Seou Geok as the pillion rider along Sims Avenue East in the direction of Changi Road when they met with an accident with motor car ER 6822B which was being driven by one Ng Swee Kin, the defendant in Suit 2241, along Sims Avenue East in the direction of Changi Road. The plaintiff commenced legal proceedings against the defendant (Suit 2241) on 10 April 1984 for damages for personal injuries and consequential loss suffered by him caused by the negligence of the defendant in the driving of the said motor car along Sims Avenue East on or about 7 December 1982. The plaintiff alleged that the said accident was caused solely by the negligence of the defendant, the particulars of which were set out in para 2 of the statement of claim.

On 22 May 1984, the said pillion rider, Tan Seou Geok, started an action, Suit No 3292 of 1984 ('Suit 3292'), against both the driver of the said motor vehicle and the rider of the said motor cycle for damages for personal injuries and consequential loss suffered by her and caused by the negligence of the first defendant in the driving of the said motor car and by the negligence of the second defendant in the riding of the said motor cycle or alternatively by the negligence of one or other of them in the driving of their respective vehicles along Sims Avenue East on or about 7 December 1982.

On a summons-for-directions heard on 29 October 1984, it was ordered that the action in Suit 2241 be consolidated with the action in Suit 3292. The consolidated suit came on for hearing before me on 4 and 5 July 1988 and on 11 and 18 November 1989. During the course of the hearing before me, it was agreed by counsel for the parties in the consolidated action that I was only to deal with the question of liability in the consolidated action and that on my finding on the question of liability, the matter would then stand referred to the registrar on the question of the assessment of damages, it having been agreed by all counsel that all or any of the evidence recorded by me on the question of damages would go before the registrar and would be treated by him as if such evidence had been recorded by and before him. It was further agreed that, if necessary, the parties were to be at liberty to adduce further evidence before the registrar on the question of damages. At the end of the hearing before me, I reserved judgment on liability.

The evidence of the plaintiff in Suit 2241 (hereinafter referred to as the 'rider') with regard to the accident was as follows:

> On 7 December 1982, I was riding my motor cycle AZ9610G. I had Miss Tan Seou Geok as my pillion rider (identified). We were on our way to Changi from Jalan Eunos for supper. This was after midnight. As I was travelling along Sims Avenue East, I was involved in an accident. Sims Avenue East is a one-way road. It has four lanes. Road surface was dry. Visibility was good. Street lights were on. We were not in a hurry. I was in the first lane on the left, close to second lane. We were travelling at about 40-50 miles per hour. Traffic was light. No other vehicles on the road other than mine.
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> While I was travelling on a straight course, I was suddenly hit from behind by something. That was the first impact I knew. At that time I did not know what hit me. As a result of the collision, my motor cycle and I fell down. My motor cycle fell down first. I fell on the road. My head hit the road and I became unconscious.

The defendant in Suit 2241 (hereinafter referred to as the 'car driver'), in his examination-in-chief, testified as follows:

> On 7 December 1982 at 12.45am, I was travelling along Sims Avenue towards Upper Changi Road. I was the driver of ER6822. I was alone. No passenger. The weather was dry. No

rain and visibility was good. The street was well lit and traffic was light. After passing the traffic lights at Jalan Eunos, my car was involved in a collision with a motor cycle AZ9610.

Q: How did this collision occur?
A: When I started from the junction of Jalan Eunos and Sims Avenue East I was in the second lane from the left. When I had travelled 100m from the junction, there was a car on my left on the first lane. That car was driving very slowly. At that moment, when I tried to overtake the car I heard a noise of a collision between a motor cycle and my car. That motor cycle had tried to overtake the same car that I had tried to overtake by squeezing through the car on my left and my car. That resulted in the collision between my car and the motor cycle. At that moment I was quite shocked. It happened so suddenly. So when I stopped my car, I saw two persons lying on the road in front of my car. At that moment I drove my car to my left and parked it at the junction of Lorong Sarina and Sims Drive.

The car driver further stated:

Other than the car on the left, I saw no other vehicle either in front or behind. I did not see the motor cyclist that was involved in this collision. There were some other vehicles behind me which stopped at the junction and when I moved off they started to move. I did not see the motor cycle. It was not in front of me. I did not see the motor cycle just prior to the accident. The point of contact between my car and the motor cycle is between the front left of my car and the right side of the motor cycle. I was travelling at 50 kmph. The car on my left was travelling at a speed slower than that of mine.

Cross-examined by Mr Chellam, the car driver stated:

I stopped at the junction about 100m from the scene of accident. I did not pay much attention if there was a motor cycle at the junction. There were few vehicles at the junction. I did not pay much attention as to whether the slow-moving car on my left was at the junction. Obviously this slow-moving car must have come from Jalan Eunos as I did not see it at the junction. As I left the junction, I was the first vehicle to leave. The other vehicles were following me behind. I was travelling faster than the others. Between the junction and the scene of accident, I did not notice the motor cycle. As I was on my way straight on my second lane after getting off from the junction, I saw the slow-moving vehicle turning left into Sims Avenue from Jalan Eunos but I did not see the motor cycle.

He further testified (1) that the motor cycle fell in front of his vehicle on his left; (2) that the rider and pillion rider were thrown a few feet in front of his car towards the right; (3) that when he was travelling on the second lane there was no car by his side on his right; (4) that the motor cycle cut into his lane and in the course of overtaking the slow car on his left struck him on the left front side of his car; (5) that after the accident the motor cycle was in front on his left and the injured persons were in front from the right.

The evidence of the police sergeant (PW2) was to the effect that the motor cycle had fallen on its right and that part of the damage to it was due to the collision and other due to the fall of the motor cycle and that the only damage to the car was to its front left and that there was no damage to the car to its front centre or to its front right.

I find it difficult to believe the evidence of the car driver. His story that the accident occurred when he (in the second lane) was passing the slow-moving vehicle (in the first lane) and the motor cycle at the same time was trying to squeeze past him and the slow-moving vehicle does not, on the evidence as deposed, seem possible. His evidence is that as he was moving off ahead of all other traffic from the traffic light junction at Sims Avenue East and Jalan Eunos, he saw the slow-moving vehicle turning left into Sims Avenue East from Jalan Eunos (but he did not see the motor cycle). According to him, he was travelling much faster than the slow-moving vehicle. If this were so, he would have been well ahead of the slow-moving vehicle when it had fully turned left and entered Sims Avenue East from Jalan Eunos. The scene of the accident was 100m from the said traffic light junction. By the time the car driver travelled the said 100m, he would have been several metres ahead of the slow-moving vehicle and so it would not have been possible for the accident to have occurred in the manner deposed to by the car driver.

I accept the evidence of the rider that he was hit from behind by the car driver. It seems to me that the accident occurred because the car driver was not keeping a proper lookout. I therefore find that it was a total lack of care on the part of the car driver that caused the accident. I therefore enter interlocutory judgment for the plaintiff in Suit 2241 on the basis that the car driver, the defendant, was wholly to blame for the accident.

So far as the pillion rider is concerned, there has been no suggestion by any of the two defendants in Suit 3292 that she was to blame in any way for the accident. There will therefore be an interlocutory judgment for the plaintiff in Suit 3292 against the first defendant on the basis that he is fully responsible for the accident. The consolidated action will now stand remitted to the registrar for him to assess damages suffered by the plaintiffs in both actions. Costs in Suit 2241 to the plaintiff and to be paid by the defendant. Costs in Suit 3292 to the plaintiff and to be paid by the first defendant. There will be no order as to costs for the second defendant. There will be no order on the question of interest.

*Order accordingly.*

Solicitors: *Pala Krishnan & Partners*; *Niru & Co*; *Tan Harjeet & Partners*; *Leong Chia & Lee.*

Reported by *Terence Tan Bian Chye*